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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal
corporation,

Defendant.

Case No. 3:20-cv-00917-HZ

DECLARATION OF HILARY JEPSEN IN
SUPPORT OF PLAINTIFF'S MOTION TO
SHOW CAUSE WHY DEFENDANT CITY
OF PORTLAND SHOULD NOT BE HELD
IN CONTEMPT

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING REQUESTED

I, Hilary Jepsen, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein.
2. On June 27, 2020, I attended a protest in downtown Portland near 3rd and Main. I was peacefully toward the back of the protesters when PPB started loud hailing around approximately 10:24 pm that protesters needed to leave 3rd street, I retreated further west towards 4th. I stayed near enough to hear the instructions being broadcast by PPB.
3. As I moved further west, the larger crowd started rushing toward 4th as well. People were doing their best to stay calm and not run as there were hundreds of people in attendance, and that would be unsafe to all start running, and in the dark no less.
4. As I moved west, I noticed glowing (burning) projectiles flying through the air near and over the Elk statue that is located in the middle of Main Street approximately half-way between the blocks of 3rd and 4th. I leaned my body to the side in order to avoid being hit by some sort of projectile that looked as though it was on fire. At first, I thought it was fireworks and was

worried about the safety of myself and the crowd, especially with how close the projectile came to me.

5. One of the projectiles landed within a couple feet west of my feet as I was walking westbound. Around me I could hear many people shouting to remain calm and that it was "just smoke." I was looking down to make sure I didn't accidentally step on the thing, and to check if it was indeed a firework that possibly needed to be put out with water, or in fact I needed to stomp out a fire.

6. Then I felt a sudden painful burning in my throat that rapidly moved down into my lungs. I was following safety guidelines and had on a face covering as is currently recommended by our government. The amount of respiratory irritant that made it up the bottom of my mask was enough to send a painful burning sensation into my throat and chest. I was choking and coughing and trying to say that it wasn't "Just smoke" to the person I was with. He among others continued to say "It's just smoke, it's OK, it just smells bad. Don't worry about it."

7. Everyone was doing an excellent job of trying to remain calm and keep each other calm so we could all remain safe with similar reassuring words. It takes a lot of self-discipline to override human instinct and not run, but instead walk away calmly when objects on fire are being lobbed at you. I continued to try and spit out the words "It isn't smoke, don't inhale." But it was difficult to speak.

8. The talking just made the burning worse. Soon others started noting that it was definitely not smoke. By this time, I had made it west of 4th onto the south sidewalk of Main and tried to step to the side so I could attempt catching my breath and I wanted to drink some of my water without being physically close to other people. I have been practicing social distancing but needed to lift my face covering in order to drink.

9. That is when an incredibly painful coughing fit started. I was in a predicament because I

needed water to feel better, stop my coughing, and hopefully be able to catch my breath. The crowd had all been funneled into one city block instead of how we had been more safely spaced just minutes before the police had moved the protesters west when most people were able to choose to spread out in the park between 3rd and 4th, and could freely move side to side which allowed us to maintain social distancing with no problems.

10. I am a middle-aged woman with no criminal history. I was downtown as a peaceful protester and was very much following all laws and staying as far away from any tightly formed crowds as I could. I was remaining safely towards the back of everything, and was very conscious of my surroundings, as I wanted to remain responsible and safe with my social distancing, not breaking any laws, and leaving myself a safe exit if anyone started engaging in behavior, I didn't feel comfortable around.

11. Law enforcement definitely deployed projectile respiratory irritant chemicals that were used in an area where people were passive. I was on an exit route out of the general area but was already nearly a city block away from the street that had been ordered cleared when the projectile landed in front of me, after being launched at me from behind.

12. I was not in an area that law enforcement stated needed to be cleared. These irritants were most definitely used in an area where people were engaging in passive resistance with no other safe route of exit than the one that was being attacked by flaming objects flying in from the cops that had just told the protesters to move.

13. These projectiles were not only very likely to impact an area where people were only passive, they did. The only violence against persons I witnessed that evening was when I was on the receiving end of it from the PPB and, ironically, they are those tasked to serve and protect me. They did me a disservice and put me and many others in harm's way. I had some sort of gas launched toward me when I was very much staying away from areas that law enforcement

commanded be vacated.

14. My experience that evening leads me to believe I was witness to, and victim of the PPB violating that restraining order I have read about. I don't fully know the scope or legal definition of what "or its equivalent" in regard to tear gas type substances that are written into the restraining order. But I think most people with common sense would refer to what happened to me on Saturday night as being tear gassed.

15. Even though I was far away from the restricted area and following commands, I was still exposed to these gasses without just cause. Furthermore, I witnessed no one near my location that was engaging in any life threatening or unsafe behaviors.


16. I am disappointed in the irresponsible and unsafe manner in which the PPB deployed their crowd dispersal weapons. I hope to learn more from the incident response report of that evening, if it is a public record, as I would like to know what substance I inhaled.

17. I still have symptoms from the incident.

18. I believe in the continued importance of the protests and would like to attend protests in the future. However, I have been frightened and shocked by the experience I had while trying to peacefully attend a protest and leave when requested. I am fearful that if I choose to go out to protests again, I will be subject to similarly dangerous and unnecessary force by the PPB.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 29, 2020.


Hilary Jepsen (Jun 29, 2020 21:43 PDT)

Hilary Jepsen